

### REMARKS

Entry of the present amendment and reconsideration of the claims is respectfully requested.

## **I. Status of the Claims**

Claim 21 has been amended and the amendments do not add new matter. Support for the amendment is in the Specification, at least at page 19, lines 1-38.

Claims 21-25 and 27-45 are pending in the application.

## II. Status of the Drawings

Figure 13 has been objected to by the Examiner for the placement of the signal line 56. Applicant has amended Figure 13 pursuant to the Examiner's helpful suggestion and respectfully request that the objection be withdrawn. No new matter is added.

### **III. Acknowledgment of Allowable Subject Matter**

Applicant would like to thank the Examiner for the acknowledgment of allowable subject matter in claims 28, 29, 37-42 and 44-45 if the rejection under 35 U.S.C. § 112, second paragraph is overcome and the claims are rewritten in independent form.

#### **IV. Rejection under 35 U.S.C. § 112**

Claims 21-25 and 27-45 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the Examiner states that the element “means for restricting the flow rate” is structurally unclear and thus indefinite. Applicant has amended claim 21 to remove reference to the “means for restricting the flow rate.” Applicant has added additional elements that are definite.

Applicant respectfully submits that claim 21 is definite, thus claims 22-25 and 27-45 are definite and the the rejection should be withdrawn.

**V. Rejections under 35 U.S.C. § 101 - Double Patenting**

Claims 21-25, 27, 31-36 and 43 have been rejected under 35 U.S.C. §101 for nonstatutory judicially created doctrine of obviousness-type double patenting over claim 3 of U.S. Patent No. 6,116,138 to Achten in view of U.S. Patent No. 2,550,405 to Crosby, U.S. Patent No. 5,251,442 to Roche, and U.S. Patent No. 4,187,681 to Johnson. Achten's invention relates to a hydraulic transformer that controls a hydromotor without any additional valves or controls. Achten discloses a simple hydraulic design wherein each hydromotor has its own hydraulic transformer.

Applicant has amended claim 21 and neither Achten, Crosby, Roche, nor Johnson disclose using "a feedback of the hydromotor load and the hydromotor speed" to adjust the adjustment means. Additionally, none of the references disclose using a sensor in the high pressure line or an algorithm for calculating the hydromotor load.

In light of the amendments and the reasons set forth herein, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 101 and double-patenting and urge allowance of the claims as now amended.

**VI. Rejections under 35 U.S.C. § 103**

Claims 21-25, 27 and 30-32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Crosby in view of Roche. The Examiner states that Crosby discloses all the elements of the claimed invention except for a sensor that measures flow in the connecting line and

that Roche discloses most of the elements of the claimed invention, including a flow sensor that measures flow in the line between the transformer and the hydromotor. Additionally, the Examiner relies on Applicant Admitted Prior Art (“AAPA”) and Johnson for additional aspects of the rejection.

Applicant respectfully traverses the above rejection. Applicant has amended claim 21 to recite “a means for restricting a hydromotor load and a hydromotor speed by adjusting the adjustment means based on a feedback of the hydromotor load and the hydromotor speed” and “one of a sensor for measuring the flow rate of the fluid flow in the high-pressure line to the hydraulic transformer and an algorithm for calculating the hydromotor load based on the setting of the adjustment means and a measured flow rate.” As stated above, Crosby, Roche, Johnson and the AAPA do not disclose a restricting means based on a feedback system and an algorithm for calculating hydromotor load.

Additionally, 22-25, 27 and 30-32 depend from claim 21 and are allowable based at least on their dependency to the independent claim.

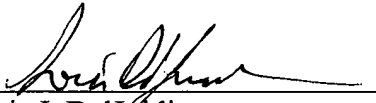
Applicant respectfully requests the present rejections be withdrawn.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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**AMENDMENTS TO THE DRAWINGS**

Figure 13 has been amended to reposition the signal line 56.

